

United States District Court

Eastern District of California

Clarence Montgomery,

Plaintiff,

No. Civ. S 04-1529 LKK PAN P

vs.

Findings and Recommendations

Tom L. Carey,

Defendant.

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Plaintiff is a state prisoner without counsel prosecuting a civil rights action.

March 17, 2005, the court ordered plaintiff to submit materials for service of process upon defendant within 30 days. He did not. May 11, 2005, the court ordered plaintiff to show cause why this action should not be dismissed for failure to serve process. See Fed. R. Civ. P. 4(m). Plaintiff did not respond.

Accordingly, I hereby recommend this action be dismissed

1 without prejudice. Fed. R. Civ. P. 4(m).

2 Pursuant to the provisions of 28 U.S.C. § 636(b)(1), these
3 findings and recommendations are submitted to the United States
4 District Judge assigned to this case. Written objections may be
5 filed within 20 days of service of these findings and
6 recommendations. The document should be captioned "Objections to
7 Magistrate Judge's Findings and Recommendations." The district
8 judge may accept, reject, or modify these findings and
9 recommendations in whole or in part.

10 Dated: July 7, 2005.

11 /s/ Peter A. Nowinski

12 PETER A. NOWINSKI

13 Magistrate Judge

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